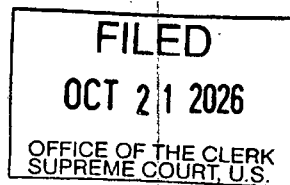


26-545

ORIGINAL



UNITED STATES SUPREME COURT

Case NUMBER

DIANA YAZMIN LUGO

PETITIONER, Pro se Plaintiff

Versus

**BIRMINGHAM JEFFERSON COUNTY
TRANSIT AUTHORITY**

**Petition for Writ of certiorari from the
Eleventh Circuit Court of Appeals Case No.
25-11476**

PETITION FOR WRIT OF CERTIORARI

Diana Yazmin Lugo

Petitioner, Pro Se

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P. 205 8429759

QUESTIONS PRESENTED

1. Whether the Eleventh Circuit's strict requirement that a Title VII plaintiff identify a comparator who is "similarly situated in all material respects" conflicts with this Court's burden-shifting framework established in *McDonnell Douglas Corp. v. Green* deepens an existing circuit split and creates geographically unequal enforcement protection of federal civil rights.
2. Whether the Eleventh Circuit misapplied the *de novo* standard of review under Federal Rule of Civil Procedure 56 and deepened an existing circuit split by affirming summary judgment while refusing to examine material deposition records and discovery evidence within the record, thereby invading the province of the jury and violating the Petitioner's Seventh Amendment rights.

3. Whether employee advocacy on behalf of a third party under the Americans with Disabilities Act (ADA) constitutes a protected activity under 42 U.S.C. § 12203(a), deepening an entrenched circuit split where several circuits recognize such advocacy while the Eleventh Circuit declines to do so, leaving an important question of federal civil rights enforcement unresolved.

LIST OF THE PARTIES TO THE PROCEEDING

Petitioner: Diana Yazmin Lugo, Plaintiff-appellant, below appears Pro Sec.

Respondent: Birmingham, Jefferson County, Transit Authority ("BJCTA"). Defendant, appellee below. No. 25-11476 (11th Cir) Court of Appeals Proceedings.

Related Proceedings: Diana Yazmin Lugo V. Birmingham, Jefferson Transit Authority No. 2:22-cv-00362 ACA (N.D. Ala.) District Court Proceedings.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.1, Petitioner Diana Yazmin Lugo is natural person, Pro se at Homewood, AL and makes no disclosure under this Rule.

Respondent Birmingham Jefferson County Transit Authority is public transit Authority Stablished under the Laws of the State of Alabama; it has no Corporation and no Publicly held company owns any stocks in or has a financial interest in the Birmingham Jefferson County Transit Authority that relies from Federal funds.

TABLE OF CONTENT

Question Presented	
List of Proceedings.....	i
Corporate Disclosure Statement.....	i
Proceeding by Court below.....	ii
Case Citations.....	ii-iv
Statutes.....	iv-v
Constitutional Provision.....	v
Federal Rules.....	v
Jurisdiction.....	1
Constitutional and Statutory Provision Involve.....	1
Stated in Appendix Vol.3	
Statement of the Case.....	2
A. Background.....	2
B. Fabricated Recs Evidence of Pretext and Protected Activity....	3-7
C. District Court proceedings.....	7-11
D. Eleventh Cir. Proceedings.....	11-14
REASON FOR GRANTING	
I. Rigid conflicting "Similar Situated in all Material Respects Comparator Standard from 11 th Cir.....	14
II. Eleventh Cir. Liberal Construction critics and Misapplied de novo review.	17

III.	Eleventh Cir. Refusal to recognized third party's advocacy on behalf of ADA as protected activity.....	19-22
IV.	This case is an Ideal Vehicle to solve the Entrenched splits.....	22
V.	National Importance....	22-23
	CONCLUSION.....	23
	APPENDIX	

**LIST OF PROCEEDINGS BY THE COURTS
BELOW**

Judgment, Unpublished Mandate issued on August 4th of 2026 from the Eleventh Circuit Court of Appeals case 25-11476.

Denial of the petition for re hearing and En banc rehearing, Unpublish Per Curiam July 27 of 2026. Eleventh Circuit Court of the

Appeals 25-11476.Judgment AFFIRM the District court granting Motion for Summary Judgment, Unpublished Per Curiam issued on June 8th of 2026.

Judgment, Denial motion for reconsideration on the granted Summary Judgment to the Movant party, District Court 2:22-CV-00362-ACA, entered April 29th of 2026.

Opinion of the United States District Court for the Northern District of Alabama: Granted Summary Judgment to defendant in all claims, it is unpublished but appears at Lugo v. Birmingham Jefferson County Transit Authority, No. 2:22-cv-00362-ACA (N.D. Ala. March 31st, 2025).

CASE CITATIONS

A.C. v. Shelby County, 711

F.3d 687 (6th Cir. 2013) 20

Anderson v. Liberty Lobby, 477

U.S 242 (1986)	9,10,11,18
Aramburu v. Boeing Co., 112 F.3d	
1398 (10th Cir. 1997)	15,16
<i>Babb v. Secretary Dept of Veterans Aff.</i>	13
<i>Brown v. Daikin Am Inc</i> 756 F3d	
(second circuit)	15
Burlington Northern & Santa Fe	
Railway Co. v. White,	
548 U.S. 53 (2006)	5,7,12,13,19
Celotex Corp. V. Catrett, 477 U.S 317,	
(1986)	9,18
Coleman v. Donahoe. 667	
F3d. 835 (7th Cir)	15
Coons v. Treasury, 383 F.3d 879	
(9th Cir. 2004)	21
C.R. England v. EEOC, 644 F.3d	
1028 (10th Cir. 2011)	21
Coward v. Cambridge Sch. Comm., 171	
F.3d 12 (1st Cir. 1999).....	15
Crawford.....	7,13
Erickson v. Pardus, 551	
U.S 89 (2007)	7,12,18
Feliciano v. City of Miami	
Beach 707 F3d.1244, 1247(11th Cir)	19

Fogleman.....	20
George v. Leavitt, 407 F.3d 405 (D.C. Cir. 2005)	16
Goodson v. City of Philadelphia, 2025)	18
Haines v. Kerner.....	7,17
Hawn v. Executive Jet Mgmt.....	15
Hill v. Potter, 352 F.3d 1142 (7th Cir. 2004)	18
Krouse v. American Sterilizer Co., 126 F.3d 494 (3d Cir. 1997)	20
Lewis v. City of Union City (11th Cir)	12,16
McDonnell Douglas Corp v. Green 411, US 792 (1973)	7,13,15,16
Reeves v. Kerner, 404 U.S. 519 (1972)	7,11,18
Sterling v. Deutsche Bank Nat'l Trust Co., 2025)	18
Tolan v. Cotton 572 U.S. 650 (2014).....	11,17,18
Wanta Thome, March 22 of 2025.....	22

STATUTES

42 U.S.C. § 1981.....	1,2,3,7
Title VII of the Civil Rights Act 1964.....	1,2,7

Title VII, 42 U.S.C. § 2000e-2(a)(1)	1,7
Title VII retaliation, 42U.S.C. § 2000e3(a).....	1,2,12
ADA retaliation, 42 U.S.C. § 12203(a).....	1,2,3,6,14,20,21,22
Section 504, 29 U.S.C. § 794.....	1,2

CONSTITUTIONAL PROVISIONS

First Amendment- Petition Clause/ Right to a civil Jury Trial.	1,9,19
Seventh Amendment-Preservation Clause/Right to a civil Jury Trial.....	1,9,10,11,13,19
Fourteenth Amendment-Due Process Clause, Equal Protection Clause.....	1,9,12

FEDERAL RULES

Rule 8(a).....	14
Sup. Ct. R. 13.3.....	1
Sup. Ct. R. 14, 19, 30.....	1
28 U.S.C. § 1254(1).....	1
Federal Rules of Civil Procedure 56.....	1,3,7,8,9,11,12,13,17,19
Federal Rules of Civil Procedure 37.....	1,7

JURISDICTION

The petition for rehearing and petition for rehearing En banc was denied in a Per Curiam, Unpublished decision on July 27, 2026.

The Eleventh Circuit affirmed the district court's decision of Granting the Summary Judgment on June 8, 2026, in an Unpublished opinion. Petitioner is timely filing this Writ of Certiorari within 90 days on the denial of the rehearing and En banc rehearing decision Sup. Ct. R. 13.3, this Court has jurisdiction under **28 U.S.C. § 1254(1)**.

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S.C. § 1981, Title VII, 42 U.S.C. § 2000e-2(a)(1), Title VII retaliation, 42 U.S.C. § 2000e-3(a). ADA retaliation, 42 U.S.C. § 12203(a). Section 504, 29 U.S.C. § 794.

Seventh Amendment-Preservation Clause/Right to a civil Jury Trial.

Fourteenth Amendment-Due Process Clause, Equal Protection Clause.

Federal Rule of Civil Procedure 56, 37,

Supreme Court Rules 13, 14, 29, and 30

Full text appears in the Appendix.

STATEMENT OF THE CASE

A. Background

Pro Se petitioner endured a sustained pattern of discrimination and retaliation acts prohibit under 42 U.S.C § 1981, 42 U.S.C 2000-3(a), 42 U.S.C, 29 U.S.C §794(a) Section 504 and ADA 12203(a), Section 504 by Birmingham Jefferson Transit Authority, ("BJCTA"), local government entity operating with Federal Funds who provides transportation to American with Disabilities ("ADA") to their doctor's appointments, petitioner participated on investigations conducted by EEO and HR at BJCTA about discrimination and retaliation, she was in a protected activity, possess protected characteristics, she was the only employee that was not black at Customer Service Department.

As on September of 2019, she became into a protected activity under Title VII of the Civil Right Acts 1964 and 1981, discrimination and retaliation clause, ADA 42, U.S.C 12203(a), Section 504, App.28(a)-29(a), 31(a), 37(a),40(a), despite consistently high performance quality of customer service, App.27(a) responder subjected her to a pattern of adverse actions due to her complaints and opposition to unlawful practices, after her first complaint her supervisor at BJCTA started a campaign of retaliatory acts actions that burdened her Equal Civil Right Protection raising constitutional questions appropriated for this court's review.

B. Fabricated Records and Pretext that evidence her Protected Activity

On September 24th, 2019, Petitioner verbally complained to her supervisor invoking the poor treatment from team leader toward herself and to ADA rides, that directly constitute a violation 42 U.S.C § 1981, and ADA 12203(a).

BJCTA rather than solving her concerns, placed her complaint in a physical record directly into her internal disciplinary file as coaching session, with *"solutions offered about how to resolve the said issues"* if petitioner was the complainer, the offender employee was promoted without being disciplined. App.28(a)-29(a), petitioner reasonably filed a charge for discrimination and retaliation App.37(a), with HR, September 24th, 2019, making it the second protected activity.

On October 8th, two weeks later, petitioner was retaliated against for the said protected activity with three employee counseling given the same day building a pretextual record to justify an adverse action. The pattern of systematic retaliation and disparate treatment continued. Although the employer's HR and EEO department later reversed the contradictory unpaid suspension, mischaracterized reprimand and counseling while conducting an internal investigation. App.31(a), 37(a), 40(a) BJCTA's supervisor did not stop this systematic retaliatory treatment as of the witnesses testified, BJCTA insulated petitioner to work alone while the outside members of a protected characteristics had

the privilege to "work remotely". App.38(a) at 29.

Q. So are you a witness that Diana L. was working by herself in the office at BJCTA while everyone also was working remotely?

A. One time.

Q. One time, basically yes, right?

A. Yes.

This evidence of disparate treatment and discrimination is on record for a jury's inference under FRCP 56. Lugo was the only one that was not black employee. App.39(a) at 31.

Q. Yes, but you see I was sick, you just do not know the reason why?

A. Exactly, yes, ma'am.

Reason why petitioner's health was "shaky, downhill", and performance downhill from 98% quality to 96% during the same period of time in which petitioner was "suspended after she applied to a higher position, suspension that was reversed if petitioner was advocating on behalf of ADA rider.

Under Title VII and ADA, the actions presented by BJCTA are against the law and constitute protected activities, the outside protected members group were treated favorably.

The Eleventh circuit questioned Whether petitioner was in a protected activity? despite the evidence on the record, declining to accept this protected activity, App.13(a) by using the wrong standard for retaliation instead analyzing "*well might have dissuaded a reasonable worker from making or supporting a charge of discrimination.*"

Burlington Northern & Santa Fe Railway Co. v. White, 548 U.S. 53 (2006). Thereafter, affirmed the decision made by the district court making the same mistake.

soon after

App.17(a), App38(a) at 29, Green testified during her deposition that Lugo was insulated "working by herself at the office while everyone also at home "remotely" during the covid. See App39(a) witness testified that petitioner was sick while insulated at the office due to such a pervasive hostile working environment.

Supervisor used remarks different times while writing mischaracterized, fraudulent evaluations, contradictory employee counseling that were reversed by HR and EEO, some others were under investigation as evidence on the record shows during the opposition of the summary judgment in document 90 at 2:22-cv-00362-ACA in the District court. Supervisor Smith permanently wrote employee counseling with assumptions about petitioner's accent "*people here cannot understand you, because is hard to understand you...then if petitioner would say something then supervisor would retaliate her against with counseling for "insubordination, no taking ownership of her mistakes, not accepting criticism"*

Additionally, BJCTA presented a fraudulent Performance Improvement Plan ("PIP"), monthly result, **unsigned by witness nor employee fabricated evaluation** at Petitioner's deposition as "the reason" for her employment's termination, App.33(a)-34(a) even though she had never

seen it. The original, signed evaluation from the same period showed **positive performance**, except that petitioner uses: ADA and NOW", she was admonished for advocating on behalf of ADA riders if ADA riders needed to be pick up on time, but the bus would not appear due to the shortage of drivers, the ADA needed to get to their doctor's appointment on time, "ASAP", Compare with App. 35(a)-36(a) evaluating the same period time, BJCTA intentionally contradicts when calling it "90 days PIP", this fraudulent document is no longer evidence at Summary Judgment, witnesses depositions evidence that the "PIP" is not part of the disciplinary steps nor 90 days prior termination from the handbook at BJCTA, Green testified that she was evaluated with PIP before and does "not do so good" App 38(a) at 27, App.32 (a) at 45, she never had employee counseling on her record despite her monthly evaluation was "*not so good*" the handbook specified that this PIP is for one year successfully anniversary to all customer service providers according to BJCTA handbook, appraisal part to build skills and goals for the upcoming year.

Further, retaliatory "re-training" Memorandum that itself states that it would not be in petitioner's disciplinary file, but it was added, App.30(a) it was made after petitioner's protected activity and reversed suspension, when petitioner applied to a promotional job that required no disciplinary records prior six months and six months working at BJCTA.

Petitioner was denied for this promotion, BJCTA selected a candidate outside the protected group applicant, under 40 years, less qualified. (A. Peebles).

Petitioner was the most suitable for the position, she was the only one with protected characteristics, The BJCTA took adverse actions to disqualify petitioner when writing a suspension and sending her to a re-training, this is the burden of proof for prima facie case for retaliation and discrimination under the *Mc Donnell Douglas* framework. (Title VII) the district court and Eleventh Circuit declined to accept this fact as factual allegation for a summary judgment in where the Jury could infer, this directly violates FRCP56 and contradicts *Reeves*, which holds that falsified or shifting explanations permit an inference of discrimination.

When an employer places an employee's discrimination or ADA complaint into the employee's disciplinary file, that act constitutes retaliation under *Burlington Northern*, protected opposition under *Crawford*, and pretext under *Reeves*. Courts must consider this evidence under Rule 56 and must liberally construe pro se filings under *Haines and Erickson*.

C. District Court Proceedings:

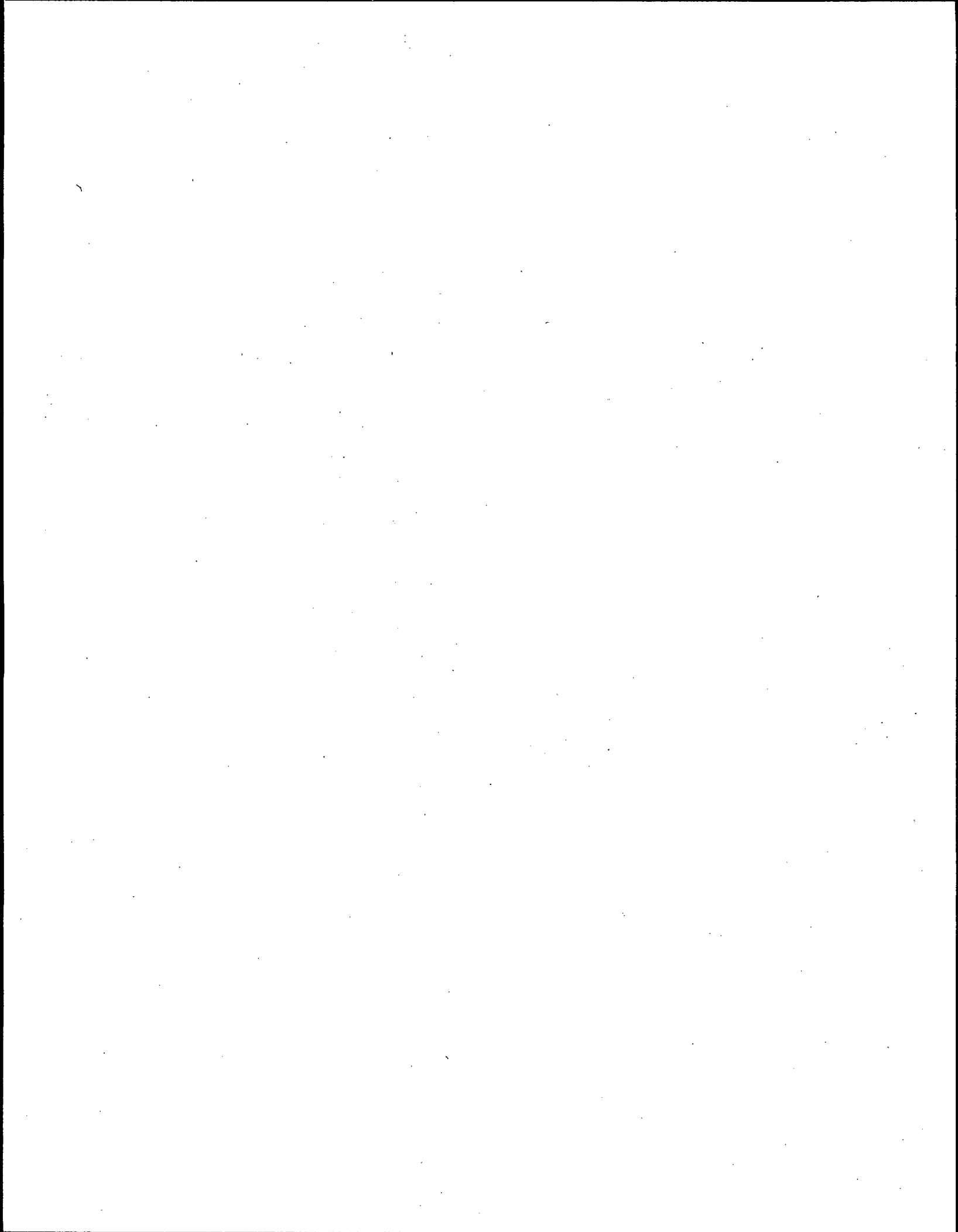
District Court erroneously Denied Petitioner's motion to compel under FRCP 37, without ruling on objections, defendant presented misconduct and obstructing depositions APP.41(a)-42(a). App43(a).

The district court denied to appointment of counsel after granting the voluntary withdrawal of petitioner's counsels at the end of discovery, without legitimate basis if petitioner alleged that her lack of English and knowledge of law, discovery was not concluded.

The district court Ignored deposition's testimony, discovery responses, affidavits, asserted claims, court's inference of discrimination and disparate treatment APP.17(a) *"the court cannot consider claims not included in Ms. Lugo's second amended complaint"*.

The district court Granted summary judgment on all claims on the movant party's favor, despite evidence of discrimination and disparate treatment existence when defendant did not provide non-valid reason for discrimination, the district court did not rule on objections on the denied motion to compel presented by petitioner disregarding that motion to compel was not solved, parallelly, the movant party filed motion to summary judgment, the court deprived Petitioner of the procedural protections guaranteed by Rule 56 and violated the Due Process Clause."

The court Sua Sponte the final judgment after mediation, granted Summary Judgment in all claims on BJCTA's favor, movant party, App.23(a).



The district court erred denying the motion for reconsideration on the final judgment while misapplying the FRCP 56 if there are factual allegations on dispute for a jury's inference then held "*Motions for reconsideration should not be a Knee jerk reaction to an adverse ruling*". The district court declined to correct the many mistaken facts, misapplying FRCP 56 when taking Jury's role if the court acknowledge genuine issues and material facts for jury's inference when the court itself inferred that discrimination existed and proved disparate treatment App17(a) then deciding that "*the court cannot consider claims not included in the amended complaint*" which is a reversible error, directly contradicting *Celotex Corp. V. Catrett*, 477 U.S 317, (1986) the court is required to view all the records from depositions and be accepted. *Anderson v. Liberty Lobby*, 477 U.S 242 (1986), court might not weigh evidence or resolve factual disputes.

The district court deprived petitioner of her Civil Rights under the Amendment-Clause, Seventh Amendment-Preservation Clause/Right to a civil Jury Trial, Fourteenth Amendment-Due Process Clause, Equal Protection Clause, the eleventh court of appeals re-affirmed the lower decision overlooking the evidence on the record that shows there is a genuine issues of material facts in where the jury could infer opposite to *Anderson v. Liberty Lobby*, 477 U.S 242 (1986) Framework. If a court acknowledges evidence that supports an inference of

discrimination and disparate treatment App.17(a), then holds it is "not enough," evidence that discrimination occurs App.11(a), the courts have violated Seventh Amendment right to a jury trial

When judges weigh evidence or decide which side is more believable at the summary judgment stage, they are improperly invading the province of the jury. Under long-standing Supreme Court precedent, a judge cannot constitutionally substitute their own assessment of the evidence for that of a jury.

To frame this argument successfully in your petition, you must ground it in established Supreme Court rulings:

The Supreme Court Precedent (*Anderson v. Liberty Lobby, Inc.*, 1986): The Court explicitly held that at the summary judgment stage, *"the judge's function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial."* The Court added that *"credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge."*

The Constitutional Violation: While summary judgment itself is constitutional, it *becomes* an unconstitutional contradiction of the Seventh Amendment's **Preservation Clause** the exact moment a judge begins weighing evidence. By deciding evidence was "not enough" to win, rather than merely

asking if a reasonable jury *could* find in your favor, the judge effectively held a bench trial on paper and stripped you of your right to a jury.

D. Eleventh Circuit Proceedings

A disagreement on the "Genuine dispute threshold:

The Eleventh Circuit's decision of Affirmance the lower court decision of granting the summary judgment to the movant party if evidence on the record for a jury inference exists is erroneously and represents a of the Seventh Amendment by Permitting Judicial Fact-Finding and the Weighing of Evidence at the Summary Judgment Stage the court went further, impermissibly weighing the evidence to conclude it was "not enough." Under this Court's binding precedent in *Anderson v. Liberty Lobby, Inc.*, a judge cannot usurp the jury's role. By weighing the evidence and resolving conflicting factual inferences on paper, if Federal Rule 56 permits the summary judgment to be granted only if there is not genuine dispute as to any material fact if petitioner presented record's evidence that genuine dispute exists the lower courts transformed a summary mechanism into an unconstitutional barrier, depriving Petitioner of the right to a civil jury trial guaranteed by the Seventh Amendment.

The eleventh circuit decision of affirming the lower court's decision directly conflicted with *Tolan*, *Reeves*, *Anderson*, and *Celotex*. This Court's intervention is warranted to correct the misapplication of de novo review

and restore uniformity in the application of Rule 56 across the federal courts.

When the eleventh circuit declined to accept Lugo's protected activity conflicts to the framework as on the Supreme Court *Burlington Northern & Santa Fe Railway Co v, white* 548 U.S. 53(2000), that Title VII's anti-retaliation provision (42 U.S.C. § 2000e-3(a)) protects employees from any employer action that is **materially adverse**—meaning it is harmful enough that “*it might well dissuade a reasonable worker from making or supporting a charge of discrimination*” standard instead.

By Applying the rigid comparator standard rule (*Lewis*) that most circuits reject, it creates a deep nationwide split destabilizing the uniform application of the Federal Civil Rights based solely on geography location, undermining Equal Protection Principles and invites arbitrary enforcement by state actors.

The Eleventh circuit err declining to decide whether ADA advocacy is protected activity and other circuits deeply recognized third party advocacy on behalf of ADA as protected activity.

Eleventh circuit Criticized pro se liberal construction of their claims Contradicting *Erickson v. Pardus*, 551 U.S 89 (2007)

The eleventh circuit erred when affirming the lower court decision that refused to consider evidence merely because of the facts

are not "in the operative complaint the court cannot accept the facts" further, Criticizing the Liberal constructions of Pro Se claims. *"Pro se must still present an intelligible explanation as to why they should prevail."* Is a violation of Rule 56, all evidence must be viewed on light of non-movant party and pro se liberally construction of their claims clause.

The panel misapplied the controlling eleventh circuit precedent by applying the wrong legal standard for retaliation and hostile working environment in *Babb v. Secretary Dept of Veterans Aff.* *"Might have dissuaded a reasonable worker"* from *Burlington Northern* and *Crawford* that prohibits courts from resolving factual disputes at summary judgment When an appellate court repeats a district court's Rule 56 violations, the error becomes **structural**, undermining:

Due process, Seventh Amendment right to a jury trial and uniform federal summary-judgment standards and that is exactly what we want to prevent here at Eleventh Circuit Jurisdiction, this warrant Certiorari review, it is important to have uniform law so everyone can enjoy the benefit of having Equal protection under the Nationwide Law.

When Eleventh circuit uses Its rigid comparator rule—requiring employees to be "similarly situated in all material respects"—contradicts *McDonnell Douglas*, deepens an

entrenched circuit split, and results in **geographically unequal enforcement of federal civil-rights law**, violating the **Equal Protection component** of the Fourteenth Amendment.

When Eleventh Circuit court of appeals expressly refused to decide whether ADA advocacy is protected activity under § 12203(a), it leaves disabled individuals and their advocates without consistent national protection, chilling the **First Amendment Petition Clause**.

These constitutional violations in the appellate process demand this Court's intervention.

The Rehearing and rehearing En banc petition were denied on July 27 of 2026.

REASONS FOR GRANTING THE WRIT

I.

The Eleventh Circuit's Rigid similar situated in all material respects comparator standard Rule Deepens an Entrenched Circuit Split that Disproportionately harms pro se litigants and the rule 8(a) "Liberal construction Doctrine"

The Eleventh Circuit demands "similarly situated in all material respects," requiring near-identical comparators.

Other circuits apply more flexible standards consistent with *McDonnell Douglas Corp v. Green* 411, US 792 (1973).

Split circuits that do not use rigid "similar in all respects":

First Circuit: Allows comparators with "substantial similarity," not identical circumstances (*Coward v. Cambridge Sch. Comm.*, 171 F.3d 12 (1st Cir. 1999)). this circuit and the tenth, reject the concept that plaintiff must produce "nearly identical comparator to survive discrimination claims, they emphasize that plaintiff can establish an inference of discrimination with variety of circumstantial methods such as "convincing mosaic" rather than the strict rigid comparator.

Second Circuit – *Brown v. Daikin Am Inc* 756 F3d (second circuit) deciding that the comparators need only be similar in relevant respects. Comparators need to be only similar enough to permit a reasonable inference of discrimination.

Seventh Circuit – *Coleman v. Donahoe*. 667 F3d. 835 (7th Cir) flexible, context-based. This circuit allows circumstantial evidence and broader comparator analysis.

Ninth Circuit – *Hawn v. Executive Jet Mgmt.* (comparators need not be identical)

Tenth Circuit – Applies a flexible standard focus on standards and conduct, not identity. (*Aramburu v. Boeing Co.*, 112

F.3d 1398 (10th Cir. 1997). This circuit structurally aligned against the rigid comparator standard mandates, expressly rejects the Eleventh Circuit's rigid comparator rule. The court held that comparators need only be disciplined for "conduct of comparable seriousness," adopting with *McDonnell Douglas*, creating a square circuit split warranting this Court's review. Under those circuits, Petitioner's comparator—same duties, same supervisor, same job posting—would suffice. In the Eleventh Circuit, it fails solely because of geography when leaving unresolved "Whether a similar situated comparator needs to be hired the same identical day regardless the retaliatory conduct the employee faced"? This claim would be survive in 10th circuit court, 2nd circuit, 7th circuit but not in the 11th circuit, prejudicially empowering bias issues, this mature conflict needs to be solved by this honorable Supreme Court because if it does not get solved then the nationwide law, equal protection would not be uniform, and the law needs to be unify.

D.C. Circuit: Considers comparators considering "overall context" (*George v. Leavitt*, 407 F.3d 405 (D.C. Cir. 2005)).

The Eleventh is being the only circuit using this rigid standard using the framework of *Lewis v. City of Union City* (11th Cir.) that requires that all similar situated comparators must have the same disciplinary history, same supervisors and duties and soon "the

same seniority" if is not reviewed through this honorable Supreme Court.

This violates the constitutional requirement of **uniform federal law**; this entrenched circuit split defeats Congress's intent that Title VII operates with national consistency and violates the constitutional requirement: Equal Protection in federal law. This warrant certiorari review.

II.

The Eleventh Circuit criticized "liberally construction Violated Rule 56, Due Process, and the Seventh Amendment

On an appeal, petitioner argued that the district court violated FRCP 56 by refusing to consider evidence from records, contrary to *Tolan v. Cotton* 572 U.S 650 (2014).

The Eleventh Circuit affirmation of the lower court's decision creates a constitutional defect. The Federal Rule of Civil Procedure 56 and other circuits require courts to review the entire record and rule in light most favorable, the non-movant party, additionally Pro se construe their pleadings liberally under foundational Supreme Court precedents like *Haines v. Kerner* that requires de novo standard of review based on the entire record-1

1-The court must **liberally construe** the complaint. If any set of facts could support a claim, the court must let the case survive.

Second Circuit: Requires de novo review of the full record (*Sterling v. Deutsche Bank Nat'l Trust Co.*, 2025).

Third Circuit: Vacated summary judgment entered by default, requiring independent merits analysis (*Goodson v. City of Philadelphia*, 2025).

Seventh Circuit: Requires courts to consider all evidence, even if imperfectly presented (*Hill v. Potter*, 352 F.3d 1142 (7th Cir. 2004)).

Ninth Circuit: Applies *Tolan v. Cotton*, 572 U.S. 650 (2014), requiring courts to view the entire record in the light most favorable to the non-movant, – courts must credit evidence favorable to the non-movant

This Court's precedents:

Celotex Corp v. Catrett 477 U.S. 317(1986)– courts must consider all the entire record's evidence. United States Supreme Court decision.

Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986) courts cannot weigh evidence, it is a jury's role. By Supreme Court.

Reeves v. Kerner, 404 U.S. 519 (1972), and *Erickson v. Pardus*, 551 U.S. 89 (2007). falsified records permit inference of discrimination.

Had the court below truly conducted an independent de novo, it would have been

legally compelled to recognize that the timing, temporal proximity between petitioner's internal HR discrimination charge and sudden escalation of disciplinary counseling-constitute overwhelming circumstantial evidence of pretext under *Burlington Northern & Santa Fe Railway Co. V. White*, 548 U.S.53 (2006).

The court needed to review the lower court grant of Summary Judgment *de novo* applying the same legal standard that bound the district court. *Feliciano v. City of Miami Beach* 707 F3d.1244, 1247(11th Cir). Accordingly, the court must view all facts and draw all reasonable inferences in the light most favorable, the non-movant party resolving any ambiguities in their favor, violating Rule 56, the Due Process Clause, and the Seventh Amendment right to a jury trial. These constitutional violations warrant certiorari.

"Eleventh Circuit criticized pro sec liberal construction... creating an impermissible barrier to court access." Therefore, violation Due Process and the First Amendment Petition Clause.

"The record contains triable dispute of material facts... the appeals court rubber stamped the district court's impermissible fact finding."

This violates the Seventh Amendment.

III.

The Eleventh Circuit's Refusal to Recognize ADA Advocacy as Protected Creates a Mature Circuit Conflict

The ADA retaliation clause protects individuals who oppose unlawful practices. Circuits such as the Third recognize **third-party ADA advocacy** (*Fogleman*). The Eleventh Circuit expressly declined to decide whether

Petitioner's advocacy was protected.

"Advocacy for disabled riders is protected activity under ADA § 12203(a)... eleventh district does not recognize that, it creates geographically unequal."

This conflict affects ADA enforcement nationwide and The ADA's anti-retaliation provision, 42 U.S.C. § 12203(a), prohibits discrimination against individuals who oppose practices made unlawful by the ADA. Multiple circuits recognize that employee advocacy on behalf of disabled individuals constitutes protected activity:

Third Circuit: Advocacy is protected opposition (*Krouse v. American Sterilizer Co.*, 126 F.3d 494 (3d Cir. 1997)).

Sixth Circuit: Protects advocacy as opposition activity (*A.C. v. Shelby County*, 711 F.3d 687 (6th Cir. 2013)). This circuit recognizes advocacy to ADA Under Title I of ADA.

Ninth Circuit: Holds ADA advocacy protected (*Coons v. Treasury*, 383 F.3d 879 (9th Cir. 2004)).

Tenth Circuit: Recognizes advocacy as protected (*C.R. England v. EEOC*, 644 F.3d 1028 (10th Cir. 2011)).

The most significant, Eleventh Circuit expressly declined to decide the issue in Lugo's case by "setting aside lingering uncertainties" that the panel refuse to resolve whether Lugo's September 2019 advocacy incident construes a protected activity and thereby denying Lugo's the benefit of the causation analysis informed by a definitive finding a protected status leaving employees in its jurisdiction unprotected. This refusal exacerbates the circuit split and creates geographic inequality in ADA enforcement. Employees in some circuits may safely advocate for disabled riders, while those in the Eleventh Circuit risk discipline or termination. This disparity violates the Equal Protection Clause and undermines Congress's

The anti-retaliation provision of the American with Disability Act ADA under 42 U.S.C 12203(a) makes it unlawful to discriminate against any individual who has "opposed any act or practice made unlawful" by the ADA. While the majority of Federal Circuits explicitly recognize a non-disabled employee's advocacy on behalf of individuals with disability as protected activity under this opposition clause as the above ones.

Courts that do not recognize the third-party advocacy on behalf of ADA:

*Seventh Circuit limits the third-party advocacy: the employee directly needs to link their complaint to a violation of the ADA itself, and the employee's actual job is to advocate (Like HR, compliance officer or special teacher) can claim retaliation. *Wanta Thome, March 22 of 2025.*

*Eleventh Circuit: the eleventh circuit does not explicitly bar advocacy claims by statute, but it severely limits them via strict pleading standards.

The needed of the uniformity of law can Grant the review of certiorari, it can only happens if this honorable Supreme Court review this petition and resolve this inequity and entrenched conflict.

IV.

The Case Presents an Ideal Vehicle

In order to create equal protection and uniformity of law application iis very important to solve the split conflicts presented above and I believe this is a great vehicle that allows this to happen if the Supreme Court can grant this petition.

V.

National Importance

These entrenched and mature splits affect millions of employees nationwide. Title VII and ADA claims arise in every industry and jurisdiction. The Eleventh Circuit's rigid comparator rule, the refusal to consider record evidence, and failure to decide ADA advocacy as a protected activity, then declining to have pro sec's claims heard instead criticizing their liberal constructions of their claims if they are under the rules. This case squarely presents recurring issues in civil-rights litigation.

CONCLUSION

**The petition for a writ of certiorari
should be granted.**